

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT OPERATIONS

Art Unit: 3629
Examiner: Dennis W. Ruhl
Applicant: Elbie D. Wallace, Jr.
Serial No. : 09/852,867
Filed : 05/10/2001
Title: Method Of Qualifying A Renter

Charlotte, North Carolina
June 3, 2008

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION IN SUPPORT OF AMENDMENT

I, the undersigned Sam Kodaimati, President of Guardian Rent Inc, located at 3715 Scott Futrell Dr., Charlotte, NC. 28208.hereby declare that:

I am qualified to discuss this patent application as an Actuarial Specialist, Risk Manager, Financial analyst, Landlord and Property Manager.

I have also done most of the actuarial and feasibility study on this project. Along with the marketing study and business planning, I conducted a thorough analysis of all of the social and economic benefits to this program. These benefits span across all aspects of the real estate market, especially in the affordable rental housing arena where the underserved population of the "Working Poor" are always left behind.

Before specifically addressing the prior art, I want to provide some background on the problem, and why I think the Applicant has a novel approach. It is undisputed that the United States has more underutilized rental housing than any other country. The higher vacancy rate or underutilization is largely attributable to an inability to find and maintain tenants that want to rent the property at the asking price and tenants that meet the qualification criteria of the landlord,

where qualification criteria is substantially a euphemism for meeting a level of acceptable financial risk. If a renter defaults on his rent, the landlord typically has no choice but to start ejection / eviction proceedings so that the landlord can get a new tenant in the property. The landlord typically tries to discern who will likely make dependable timely rental payments, where past history is the best predictor of the future performance. Most landlords have a projected level of vacancy, and it is considered a cost of doing business. The vacancy cost is budgeted into the lease, and a decrease in vacancy transmits as a profit almost directly to the bottom line. Factors that contribute to the vacancy rate include: the tenant(s) may elect to move into a purchased residence; the tenant(s) may be forced by circumstances to move to a less expensive rental unit or leave the geographic region; or the tenant(s) may be moved to a government facility – such as a prison or a military base. Rental properties, like neighborhoods, tend to be somewhat homogenous, because when the apartments are built, the owner / landlord has a target rent / rate of return per square foot. Unlike a privately owned home, which is selected by the buyer to match the buyer's needs, a landlord has to make an educated guess as to whether the rental property will match the needs of the demographics of the population of potential renters. The landlord is almost always concerned with getting stuck with deadbeat tenants and has to glean who will likely be a long term timely paying tenant. To help the landlord in selecting a tenant, many set a relatively high bar for meeting the criteria of a qualified renter. The landlord or a lease control intermediary typically runs qualification checks consisting of at a minimum, a background check, a credit check and an employment check of the potential renter. The qualification checks provides a yardstick with which to gauge the level of financial risk associated with a potential lessee. While the qualification process may be useful in identifying ideal tenants for a specific rental property, the process has the indirect effect of creating underutilized housing as it excludes many potential renters, who otherwise would become tenants. The qualification process is normally applied to substantially all strata of rental property, from the most expensive to relatively inexpensive rental property. The cumulative effect is an increase nationally in the overall vacancy rate, while there is a need for additional rental property to house the excluded potential renters. The additional rental property may initially have relaxed, or certainly lower, qualification criteria. In many cases the additional rental property is provided by governmental entities or nonprofit organizations that receive public funds. As previously stated decreased vacancy in rental property is much more profitable. The inventor has recognized that fully

utilized rental property is also more efficient as it consumes less materiel to house the same number of people, and in today's terms is greener. The qualification process almost always excludes people who have previously been in prison. Today, 1 in 37 American adults are in prison or have been in prison (Gail Russell Chaddock, *Christian Science Monitor*, 2003), and the trend predicts even higher rates breaking along racial and economic lines. It has been my experience that in the private sector, landlords have found that qualified tenants do not assure profitability, because even with a warranty / guarantee along with qualified renters, there is no certainty that when a valid lease expires that the landlord will be able to find enough qualified renters to cover his costs. This is due in no small part to the trend of segregating people using a qualification process that places so much weight on one's credit rating. An empty dwelling can cost the landlord a lot more than a renter who is slow to pay the rent. The renter is typically at least paying the electricity bill, which otherwise the landlord will have to pay to maintain the property. The policy of excluding people who have previously been in prison will be under a lot of financial pressure to change, but so far it has not, even as more and more of our citizenry experiences prison at one time or another. Also, when there is a down turn in the economy, fewer and fewer potential renters qualify as meeting the acceptable level of financial risk, and as the pool gets smaller the vacancy level gets higher, and more and more people are forced to live in the same square area. The conventional qualification process tends to stratify rental property along socio-economic lines, where usually there is a higher vacancy rate with some properties having more strident policies, and other rental properties become heavily concentrated with people. The most heavily crowded housing is usually prison, which as the Justice Department predicts is the next stop for way too many of our citizens. The invented method qualifies and accommodates potential renters instead of excluding them, lowers the financial risk with a warranted lease and lowers incidentally by spreading it over more renters, and utilizes the available housing more efficiently. Rapid implementation of the invented method could be especially important at this time (2008) as many people have been, or will be forced out of their foreclosed homes.

I have studied the Weatherly et al. U.S. Patent 6,049,784 (hereinafter Weatherly) and the Applicant's pending patent application (US 09/852,867), paying particular attention to col. 4, lines 25-33 of Weatherly. Weatherly's patent is a method for creating and managing a lease agreement. The patent includes a service product which will generate fees for the financial institution as well as providing guarantees to landlords making use of the service product. In the Weatherly method information regarding a potential lessee and a potential lessor is provided to a lease control intermediary. That information is evaluated by the lease control intermediary to determine the acceptability of the level of financial risk associated with the potential lessee, then upon determination of an acceptable risk level of financial risk, a service product in the form of a guaranty directed to periodic lease payments from the lease control intermediary to the lessor for a predetermined amount defining a guaranty limit is created. Weatherly's et al invention is substantially an automated method to help management identify high risk tenants, where the automation keeps down the cost of the process. Weatherly teaches in col. 4 lines 28-29 that there is an application fee, and that in col. 4 lines 48 – 58, if there are multiple tenant applications, the computer *applies the multiple tenant model to determine which product the financial institution will offer to the tenants*. In other words, the financial institution churns application fees, as the financial institution continues to accept applications (and the associated fees) for the same property even after another application for the property has been submitted. There is no teaching of a method of enabling housing for a greater number of people. The Weatherly process appears to keep potential renters in limbo, ultimately excluding all but those who meet the ideal credit paradigm. The Summary of the Invention states the *object of Weatherly's invention is to provide financial institutions with a heretofore unknown service product which will generate fees for the financial institution as well as providing guarantees to landlords making use of the service product*. There is no discussion by Weatherly as to how his invention will provide more housing, only a reduction of risk of default. Applicant, *per se*, does not teach "risk". Weatherly doesn't have a counter part to Applicant's steps in independent claims 1, 21 and 22, where the cost of the lease warranty is *graduated according to the renter's annual income* (see page 8, line 5-8 of the specification).

The Applicant's specification, beginning on page 6, line 17, reads *...the renter can be approved despite having a judgment against him for non-payment, bankruptcy, automobile repossession, medical bills or student loans, or no credit*. Weatherly on the other hand teaches in

col. 4, lines 56-61 that the rental application is compared against a credit model for an ideal applicant, generating an adverse letter if he doesn't meet the model. Weatherly's process col. 4, lines 25-33 teaches "*the landlord L verifies that the tenant T has signed the application and authorized the financial institution to review the prospective tenant's history. Typically, an application fee will be associated with this process, to be paid by the tenant T. The tenant T will also provide the financial institution with the required information to perform a credit check and other financial information as necessary, including employer and income information.*" Unlike, the Applicant, which forgives a judgment against him for non-payment, bankruptcy, automobile repossession, medical bills or student loans, or no credit, Weatherly's method defines a potential lessee as a computerized data grouping (col. 4, lines 57-58).

Weatherly's patented method, which is assigned to a bank, teaches *The method further preferably includes the steps of obtaining a security deposit from the lessee upon execution of the lease agreement and applying the amount of the security deposit to offset any outstanding debt associated with the lessee.* Applicant's invention doesn't teach a financial institution. Applicant does not teach giving a security deposit to the guarantor. Moreover, a conventional financial institution would never approve a method that is more concerned with creating a match between a landlord and a tenant, than making and protecting profits. A financial institution does not view decreased vacancy as a viable method of reducing the financial risk. If the tenants don't pass the credit check, then the additional tenants are just greater exposure, not assurance against risk. There are no excluded tenants in the applicant's invention, while Weatherly is filtering out all of the applicants that this invention will help.

It is for these reasons that I feel that the "Method of qualifying a renter" patent application referenced above provides advantages that are neither appreciated nor obvious by other existing patents, including Weatherly et al. U.S. Patent 6,049,784, and that this invention is unique.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Signed at Charlotte, North Carolina, on this, the third (3) day of June, 2008.

A handwritten signature in black ink, appearing to read "Sam K", with a stylized flourish at the end.

Sam Kodaimati.